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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,379	10/26/2001	George Marmaropoulos	US010544	4689
24737	7590	08/10/2004	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			LA, ANH V	
			ART UNIT	PAPER NUMBER
			2636	

DATE MAILED: 08/10/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/043,379

Applicant(s)

MARMAROPOULOS ET AL.

Examiner

Anh V La

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In claim 7, line 8, the phrase "a wearable garment" should be changed to -the wearable garment--.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giannini in view of Sato.

Regarding claim 1, Giannini discloses a portable signal activator comprising a wearable garment 10 having a body structure, a pressure-sensitive electrical activator switch 16-26 (abstract, column 3, lines 17-48) mounted to the body structure of the garment and capable of activating a removable signaling device (headphone, 34, 36, 38, 40, col. 4, lines 36-43) and a connection means extending from the electrical activator switch to serve as a coupling to the removable signaling device (see figures 1-3). Giannini does not disclose the connection means extending from the switch through a material fabric of the garment to the signaling device. Sato teaches the use of connection means extending from a switch through a material fabric of a wearable garment to a signaling device (column 2, lines 35-66). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to include the

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connection means extending from the switch through a material fabric of the garment to the signaling device to the activator of Giannini as taught by Sato for the purpose of protecting the activator.

Regarding claim 7, Giannini discloses a method for permitting a person to activate a portable removable signaling device (headphone, 34, 36, 38, 40, col. 4, lines 36-43) conveniently, the method comprising the steps of coupling a pressure-sensitive activator switch 16-26 (abstract, col. 3, lines 17-48) to the removable signaling device, mounting the removable signaling device and the switch to a wearable garment, dressing the person in the wearable garment, and positioning the switch on the garment within easy reach of the person wearing the garment (see figure 1). Giannini does not disclose connection means extending from the switch through a material fabric of the wearable garment to the signaling device. Sato teaches the use of connection means extending from a switch through a material fabric of a wearable garment to a signaling device (column 2, lines 35-66). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to include connection means extending from the switch through a material fabric of the wearable garment to the signaling device to the method of Giannini as taught by Sato for the purpose of protecting the device.

Regarding claims 2 and 8, Giannini discloses the body structure of the garment including at least a portion formed of two layers of material (column 1, lines 5-13, fig. 4-6).

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Regarding claim 3, Giannini discloses the activator switch being enclosed between the two layers (see fig. 5-6).

Regarding claims 4 and 10, Giannini discloses the two layers of material defining a moisture-resistant enclosure for the activator switch (col. 4, lines 52-67).

Regarding claims 5 and 9, Giannini discloses indicia on the outer surface of the garment (see fig. 1).

Regarding claim 6, Giannini discloses receptacles on the outer surface of the garment configured for engaging and supporting units ancillary to transmitting electronic signals (see fig. 1).

Answers to Remarks

4. Applicant's arguments filed on May 24, 2004 have been fully considered.

In response to applicant's argument that Giannini does not teach a removable signaling device. Applicant's arguments are not persuasive. Giannini does teach a removable signaling device (headphone with a detachable plug to 34, 36, 38, 40) in column 4, lines 36-43.

In response to applicant's argument that Sato can not be properly combined with Giannini, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any

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one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anh V La whose telephone number is (703) 305-3967. The examiner can normally be reached on Mon-Fri from 9:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffery Hofsass can be reached on (703) 305-4717. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



ANH V. LA
PRIMARY EXAMINER

Anh V La
Primary Examiner
Art Unit 2636

AI
August 4, 2004